IN THE

Supreme Court of the United States

OCTOBER TERM, 1936.

No. 332.

UNITED STATES OF AMERICA,

Petitioner,

v.

MORGAN BELMONT and ELEANOR R. BELMONT, as Executors of the Last Will and Testament of August Belmont, Deceased,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

RESPONDENTS' REPLY BRIEF

CORNELIUS W. WICKERSHAM,
Counsel for Respondents.

G. FORREST BUTTERWORTH, JR.,
DANIEL E. WOODHULL, JR.,
of Counsel.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1936

No. 532

UNITED STATES OF AMERICA,
Petitioner,

against

MORGAN BELMONT and ELEANOR R. BELMONT, as Executors of the Last Will and Testament of August Belmont, deceased,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

RESPONDENTS' REPLY BRIEF

Upon the argument, the Court granted leave to respondents to file a brief in reply to petitioner's reply brief. A careful examination of the latter leads us to believe that in view of what has already been said, extensive comment is not required.

It is not believed that the diplomatic correspondence there referred to shows that either recognition of the Union of Soviet Socialist Republics as the *de jure* government of Russia, or the so-called Executive Agreement, were in any true sense conditioned upon the determination of the validity of the claim upon which the Govern-

ment sues in this case. On the contrary, the emphasis appears to have been upon the resumption of normal relations between the two countries.

The petitioner makes the point that there is no occasion for the application of any public policy in favor of the respondents. It seems to us sufficient in this connection to point out that the defendants are Executors who are accountable to the Surrogate's Court in the State of New York, and are also subject to plenary suit in the State Courts. They are entitled to protection against double jeopardy. The action is at law, and under ordinary rules, the plaintiff cannot succeed without showing the validity of its own title. The decision of this case is bound to affect the interests of all concerned, including the depositor, its Receiver, and any creditors or stockholders that there may be. The defendants, to that extent at least, in opposing claims that are not recognized in New York, are at the same time protecting the rights of any others as to the deposit which are or may be recognized in New York.

Respectfully submitted,

CORNELIUS W. WICKERSHAM,
Counsel for Respondents.

G. FORREST BUTTERWORTH, JR.,
DANIEL E. WOODHULL, JR.,
of Counsel.

March, 1937.